

OPINION

Employers can't duck responsibility for workplace safety by hiring contract workers

By Rebecca Smith

May 18, 2018 | Updated: May 19, 2018 9:05 a.m.



A worker carries a front end part along the assembly at Tesla Motors, California's only full-scale auto manufacturing plant, as seen on Thurs. Feb. 19, 2015, in Fremont, Calif.

Photo: Michael Macor / The Chronicle 2015

A decision last month from the California Supreme Court is putting employers on alert — shining a spotlight on the corporate practice of contracting out employment to temp or staffing agencies or to “independent contractors.”

Tesla Inc. has attracted unwanted attention recently for its workplace practices, a serious

These denials are, unfortunately, par for the course in today's corporate landscape. Major companies have encouraged the creation of ever-more-complicated employment arrangements that send profits upstream to them, but risk and cost downstream — often through several layers of subcontractors down the chain, or to low-wage workers themselves.

At the same time that Tesla was busily pointing the finger at someone else, the state Supreme Court was signaling its willingness to take a hard look at a similar version of contracted-out employment relationships and to hold employers accountable in appropriate circumstances. The court made clear an “independent contractor” is a worker:

More from Sunday Insight

BY LEE E. OHANIAN AND TED TEMZELIDES

California's solar mandate doesn't make economic sense



EDITORIALS

CHRONICLE EDITORIAL STAFF

Editorial: Gambling ban wasn't sporting or winning

JOHN I

BY JOHN

**News
hard**

- In business for himself or herself,
- Not under the company's control, and

Instead, the workers might be called “independent contractors” (even though their work is wholly controlled by that company or brand).

Examples include the home care worker who cares for your elderly mother, the hotel worker who cleans your room, the cable guy who makes your TV work — as well as Uber drivers and delivery workers.

The same happens through franchising agreements, in which corporations set the terms for thousands of workers — think janitorial companies — whom they don’t officially employ. And, as in the case of Tesla, nearly half of industrial workforces are now supplied by temporary agencies, which may employ these “temporary” workers for months or even years.

By contracting out work, corporations attempt to lower their costs by passing responsibility for workers onto someone else — just like Tesla is trying to do. And while contracting out isn’t bad in itself, contracted workers often make less money, receive fewer (or no) benefits, have less power to negotiate with their real boss, and get stuck in dead-end jobs with little ability to advance through the ranks.

Workplace health and safety suffers, too. Recent data from the U.S. Bureau of Labor Statistics compiled in an AFL-CIO report show an increase in work-related fatalities involving contract workers. Meanwhile, an ever-growing share of the profits flow to the top, widening the wealth gap between the richest Americans and everyone else.

For many workers — especially people of color, who are more likely to be shunted into temp jobs — the cost is intensely personal. When contracted workers are injured on the job or aren’t paid for hours worked, companies often play the blame game, leaving workers struggling to find medical care or pay their bills.

So what will happen to the millwright hit by a skid carrier in Fremont, or the other injured Tesla workers whose injuries were cataloged in a recent report by the Center for Investigative Reporting? California Occupational Safety and Health Administration

That's as it should be, because who better than Tesla to keep its own contractors in line.

The reality is, big corporations do still control, directly or indirectly, wages and working conditions for the people who work under their roofs, even if they don't sign the paycheck. It's time they take responsibility for the well-being of *all* the workers who contribute to their success. The California Supreme Court's recent decision is yet another step in that direction.

Rebecca Smith is the director of the Work Structures program at the National Employment Law Project, a worker rights advocacy group. To comment, submit your letter to the editor at [SFChronicle.com/letters](https://www.sfchronicle.com/letters).

[TOP](#)

ABOUT

Our Company	Interest Based Ads
Newspaper Delivery Safety Procedures	Terms of Use
Privacy Notice /Notice At Collection	Careers
Your California Privacy Rights	Advertising

NEWSROOM

Ethics Policy	How We Cover Politics
Correction Policy	Endorsement Process
Visual Ethics Guidelines	News Tips
Anonymous Sources Policy	

CONTACT

Customer Service	Newsroom Contacts
FAQ	

[Coronavirus](#) [Local](#) [Sporting Green](#) [Food](#) [Politics](#) [Biz+Tech](#) [Culture](#) [Datebook](#) [US & World](#) [Opini](#)

SERVICES

[Reprints & Permissions](#)

[Corporate Subscriptions](#)

[App](#)

[Store](#)

[Subscription Offers](#)

[sfgate.com](#)

HEARST *newspapers*

©2020 Hearst